IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 32 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME TAX

Versus

DARBAR SAHEB VIRAWALA SURAG- WALA PALACE

Appearance:

1. WEALTH TAX REFERENCE No. 32 of 1991
MR MANISH R BHATT for Petitioner No. 1
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE K.M.MEHTA

Date of decision: 20/11/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following two questions have been referred to this court for its opinion under the provisions of sec. 27(1) of the Wealth-tax Act, 1957 (hereinafter referred to as 'the Act') :

1. Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the assessee was entitled to exemption u/s 5(1)(iii) of the W.T. Act, 1957 in respect of new building constructed by him in place of the old recognised palace?

2. Whether, on the facts and circumstances of the case, the Tribunal was right in law in coming to the conclusion that the exemption was available to a building used as an official residence irrespective of the fact whether it was old or newly constructed?"

2. Shri M.R. Bhatt, learned Sr. Central Government Standing Counsel, has appeared for the applicant revenue, whereas nobody has appeared for the respondent assessee, though notice of this court has been duly served upon the respondent assessee.

3. The learned counsel has very fairly submitted that the questions, which have been referred to this court, have already been answers in the case of the assessee himself in W.T.R. No. 44/95 decided on 18.7.2002. It has been submitted by the learned counsel that the question of law, which was referred to this court in W.T.R. No. 44/95 and the questions referred to in this reference are practically the same. Looking to the law laid down by this court in W.T.R. No. 44/95, we answer the questions referred to this court in the affirmative, i.e., in favour of the assessee and against the revenue.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(K.M. Mehta, J.)

(hn)